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**SUPREME COURT OF THE UNITED STATES**

86-1053 COMMISSIONER OF INTERNAL REVENUE  
v.  
ASPHALT PRODUCTS CO., INC.

86-1054 ASPHALT PRODUCTS CO., INC.  
v.  
COMMISSIONER OF INTERNAL REVENUE

ON PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Nos. 86-1053 AND 86-1054. Decided June 1, 1987

JUSTICE BLACKMUN, concurring in part and dissenting in  
part.

I agree with the Court in its denial of the petition for cer-  
tiorari in No. 86-1054. I dissent from its summary reversal  
of the judgment of the Sixth Circuit on the negligence pen-  
alty issue. I do not agree that the correct result is so obvi-  
ous and the Court of Appeals so clearly in error that sum-  
mary reversal is warranted. I hope the Court's action is not  
due to an innate reluctance to review a federal income tax  
case. After all, United States Courts of Appeals have  
reached conflicting conclusions on the issue, and income tax  
law often has its special vagaries. I would grant certiorari in  
No. 86-1053 and give that case plenary consideration.